1.

During the argument in the within cause, the Court expressed an opinion that all cases in probate court are in rem and counsel for the trustee stated that a year's support seems to be a mixed action, in personam and in rem.

The Court wholly overlooked deciding this question and the question is pertinent to the matter before the Court and is material in the decision of the appeal.

2.

During the argument in the within cause before the Court of Appeals, the Court expressed an opinion that the Act of June 25, 1948—62 Stat. 968, 28 U.S.C.A. 2283 applies to cases in personam only and do not apply to cases in rem.

The Court wholly overlooked this question and failed to decide it although it is material and vital to the pending cause.

3.

The Court overlooked the cases of *Constance vs. Harvey*, 215 Fed. 2nd 571, certiorari denied 348 U.S. 913 and *Conti vs. Volper*, 229 F 2nd 317, wherein Section 70(c) of the Bankruptcy Act is considered, especially the Strong-Arm Clause thereof. If the trustee stands in the place of lien creditors, he has such interest in a year's

support action as will make it his duty to defend the property in the custody of the Bankruptcy Court.

Respectfully submitted,

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T. T. MOLNAR,
Counsel for Appellant.

Post Office Address:
Post Office Box 100,
Cuthbert, Georgia.

I, T. T. Molnar, counsel for Appellant, do hereby certify that I have carefully read the decision of the Court of Appeals in the within cause and that in my opinion the Motion for a Re-Hearing is meritorious and the same is not filed for delay only.

T. T. MOLNAR.

CERTIFICATE OF SERVICE.

This is to certify that a copy of this Motion for Re-Hearing was served on W. Lowry Stone, Esq. and Joe M. Ray, Esq., Counsel for Mrs. Mabel Dell Engram, Appellee, by mailing the same to them, each at his Post Office address: Blakely, Georgia and Cuthbert, Georgia, respectively, through the United States mail, in envelopes properly stamped for the transmittal of the same and properly addressed as above stated, this .... day of ..... 1957.

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